

PART 22

APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.202 Contract clause.

FAR as of FAC 90-25

The contracting officer shall insert the clause at 52.222-3, Convict Labor, in solicitations and contracts when the contract is to be performed in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands; unless—

* * * * *

FAR as revised

The contracting officer shall insert the clause at 52.222-3, Convict Labor, in solicitations and contracts **above the micro-purchase threshold**, when the contract is to be performed in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands; unless—

* * * * *

[FAC 90-29]

22.305 Contract clause.

FAR as of FAC 90-25

The contracting officer shall insert the clause at 52.222-4, Contract Work Hours and Safety Standards Act—Overtime Compensation, in solicitations and contracts (including, for this purpose, basic ordering and blanket purchase agreements) when the contract may require or involve the employment of laborers or mechanics. However, the contracting officer shall not include the clause in solicitations and contracts if it is contemplated that the contract will be in one of the following categories:

(a) ~~Construction contracts of \$2,000 or less.~~
—(b) ~~Contracts, other than construction contracts, of \$2,500 or less. Indefinite quantity or requirements contracts, including basic ordering agreements and blanket purchase agreements are exempt, if it can be determined in advance that the aggregate amount of all orders estimated to be placed thereunder for 1 year after the effective date of the agreement will not exceed \$2,500. A determination shall be made annually thereafter if the contract or agreement is extended and the contract or agreement modified if necessary.~~

FAR as revised

The contracting officer shall insert the clause at 52.222-4, Contract Work Hours and Safety Standards Act—Overtime Compensation, in solicitations and contracts (including, for this purpose, basic ordering agreements) when the contract may require or involve the employment of laborers or mechanics. However, the contracting officer shall not include the clause in solicitations and contracts if it is contemplated that the contract will be in one of the following categories:
[FAC 90-29]

(a) **Contracts at or below the simplified acquisition threshold.** [FAC 90-29]

~~(e)~~ * * * * *
~~(d)~~ * * * * *
~~(e)~~ * * * * *
~~(f)~~ * * * * *
~~(g)~~ * * * * *

(b) * * * * *
(c) * * * * *
(d) * * * * *
(e) * * * * *
(f) * * * * *

~~(h)~~ Any other contracts exempt under regulations of the Secretary of Labor (29 CFR 5.15).

(g) **Contracts for commercial items (see Parts 2 and 12).** [FAC 90-32]

(h) Any other contracts exempt under regulations of the Secretary of Labor (29 CFR 5.15). [FAC 90-32]

52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
As prescribed in 22.305, insert the following clause: CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (MAR 1986) * * * * * (e) <i>Subcontracts.</i> The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause. (End of clause)	As prescribed in 22.305, insert the following clause: CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (JUN 1995) * * * * * (e) <i>Subcontracts.</i> The Contractor or subcontractor shall insert in any subcontracts, exceeding \$100,000 , the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause. (End of clause)

22.604-1 Statutory exemptions.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
Contracts for acquisition of the following supplies are exempt from the Act: (a) Any item in those situations where the contracting officer is authorized by the express language of a statute to purchase "in the open market" generally; or where a specific purchase is made under the conditions described in 6.302-2 in circumstances where immediate delivery is required by the public exigency. * * * * *	Contracts for acquisition of the following supplies are exempt from the Act: (a) Any item in those situations where the contracting officer is authorized by the express language of a statute to purchase "in the open market" generally (such as commercial items, see Part 12); or where a specific purchase is made under the conditions described in 6.302-2 in circumstances where immediate delivery is required by the public exigency. [FAC 90-32] * * * * *

52.222-48 Exemption from Application of Service Contract Act Provisions for Contracts for Maintenance, Calibration, and/or Repair of Certain ADP, Scientific and Medical, and/or Office and Business Equipment—Contractor Certification.

FAR as of FAC 90-25

As prescribed in 22.1006(e)(1), insert the following clause:

EXEMPTION FROM APPLICATION OF
SERVICE CONTRACT ACT PROVISIONS
(MAY 1989)

(a) The following certification shall be checked:
CERTIFICATION

The offeror certifies ☐ /does not certify ☐ that:
(i) * * * * * (ii) The contract services are furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, and/or repair of certain ADP, scientific and medical, and/or office and business equipment. An "established catalog price" is a price ~~included~~ in a catalog, price list schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, ~~and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public.~~ An "established market price" is a current price, established in the ~~usual~~ course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor; and (iii) * * * * *

(End of clause)

FAR as revised

As prescribed in 22.1006(e)(1), insert the following clause:

EXEMPTION FROM APPLICATION OF SERVICE
CONTRACT ACT PROVISIONS **FOR**
CONTRACTS FOR MAINTENANCE,
CALIBRATION, AND/OR REPAIR OF
CERTAIN ADP, SCIENTIFIC AND
MEDICAL AND/OR OFFICE BUSINESS
EQUIPMENT—CONTRACTOR
CERTIFICATION (OCT 1995)

(a) The following certification shall be checked:
CERTIFICATION

The offeror certifies ☐ /does not certify ☐ that:
(1) * * * * * (2) The contract services are furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, and/or repair of certain ADP, scientific and medical and/or office and business equipment. An "established catalog price" is a price **(including discount price) recorded** in a catalog, price list, schedule, or other **verifiable and established record** that is regularly maintained by the manufacturer or the Contractor **and** is either published or otherwise available for inspection by customers. An "established market price" is a current price, established in the course of **ordinary and usual** trade between buyers and sellers free to bargain, which can be substantiated **by data** from sources independent of the manufacturer or Contractor; and (3) * * * * *

(End of clause)

[FAC 90-32]

22.1006 Contract clauses.

22.1006 Clauses for contracts over \$2,500.

FAR as of FAC 90-25

* * * * *

(c)(1) The contracting officer shall insert the clause at 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts), or another clause which accomplishes the same purpose, in solicitations and contracts if the contract is expected to be a fixed-price service contract containing the clause at 52.222-41, Service Contract Act of 1965, as amended, and is a multiple year contract or is a contract with options to renew which exceeds the ~~small-purchase limitation~~. The clause may be used in contracts that do not exceed the ~~small-purchase limitation~~. * * * * *

(2) The contracting officer shall insert the clause at 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment, in solicitations and contracts if the contract is expected to be a fixed-price service contract containing the clause at 52.222-41, Service Contract Act of 1965, as amended, exceeds the ~~small-purchase limitation~~, and is not a multiple year contract or is not a contract with options to renew. The clause may be used in contracts that do not exceed the ~~small-purchase limitation~~. The clause at 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment, applies to both contracts subject to area prevailing wage determinations and contracts subject to contractor collective bargaining agreements (see 22.1002-2 and 22.1002-3).

* * * * *

FAR as revised

* * * * *

(c)(1) The contracting officer shall insert the clause at 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts), or another clause which accomplishes the same purpose, in solicitations and contracts if the contract is expected to be a fixed-price service contract containing the clause at 52.222-41, Service Contract Act of 1965, as amended, and is a multiple year contract or is a contract with options to renew which exceeds the **simplified acquisition threshold**. The clause may be used in contracts that do not exceed the **simplified acquisition threshold**. * * * * *

(2) The contracting officer shall insert the clause at 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment, in solicitations and contracts if the contract is expected to be a fixed-price service contract containing the clause at 52.222-41, Service Contract Act of 1965, as amended, exceeds the **simplified acquisition threshold**, and is not a multiple year contract or is not a contract with options to renew. The clause may be used in contracts that do not exceed the **simplified acquisition threshold**. The clause at 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment, applies to both contracts subject to area prevailing wage determinations and contracts subject to contractor collective bargaining agreements (see 22.1002-2 and 22.1002-3).

* * * * *

[FAC 90-29]